

## REPUBLIC OF SERBIA

Contribution received in reply to UPOV Circular E-24/047 of April 22, 2024

Republic of Serbia

Article 15(1)(i) of the 1991 Act of the UPOV Convention provides for the following compulsory exception:

“(1) [Compulsory exceptions] The breeder’s right shall not extend to

(i) acts done privately and for non-commercial purposes,”

1. *Is your country/intergovernmental organization implementing the exception “acts done privately and for non-commercial purposes”? If so, how is it implemented?*
2. *Concerning this exception, are there definitions for the following term: “acts done privately and for non-commercial purposes”?*
3. *Please specify legislation/regulation and jurisprudence concerning this exception.*

Ministry of Agriculture, Forestry and Water Management (MAFWM) - Plant Protection Directorate (PPD) is designated authority for the protection of plant breeders’ rights in the Republic of Serbia.

Law on Protection of Plant Breeders’ Rights (“Official Gazette of RS”, No.41/09 and No. 88/11) regulates conditions, manner and procedure for protection of plant breeders’ rights. In the Law on PBR exceptions to the Breeder’s Right is prescribed in the Article 26, which propose that authorization of holder of breeders’ right (referred to in Article 25 of this Law) shall not be necessary for acts:

1) done privately and for non-commercial purposes;

2) done for experimental purposes;

3) done for the purpose of breeding other varieties, and, except where the provisions of Article 25 paragraph 5 apply, acts referred to in Article 25 paragraphs 2, 3 and 4 in respect of such other varieties.

For a variety of plant species that is included in the list of species of agricultural plants involving exceptions to the plant breeder’s rights, it is considered that breeder’s rights shall not be infringed by a farmer who, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeders, uses for propagating purposes, on his own holding, the product of the harvest which he has obtained by planting, on his own holding, the protected variety or a variety covered by paragraph 5 point 1) and 2) of Article 25 (hereinafter “farm saved seed”).

Varieties of fruit, ornamentals, vegetables and forest trees shall not be included into the list of agricultural plants referred to in paragraph 2 of this Article.

Agricultural producers, except for small agricultural producers, shall be obliged to pay the holder of breeders’ right a reasonable remuneration for using “farm saved seed” in compliance with market conditions, which is significantly lower than the level of remuneration of the purchased seed.

Agricultural producers shall be obliged to deliver in writing to the breeder, at his request, all necessary data regarding usage of “farm saved seed”.

The list of species of agricultural plants referred to in paragraph 2 of this Article as well as elements for determining small agricultural producers referred to in paragraph 4 of this Article are prescribed in the Rulebook on the list of species of agricultural plants to which are related exceptions to the breeder’s right and the elements for establishing small farmers (“Official Gazette of RS”, No.38/10).

4. *Are there any challenges and/or opportunities in implementing this exception in your jurisdiction? Please explain.*